

For purposes of this appeal respondent acknowledges that claimant injured his low back on May 23, 1994. He was thereafter seen at Boeing Central Medical and referred to Dr. Bartal. In August 1994 Dr. Bartal concluded that no additional treatment would be

necessary. Dr. Bartal released claimant with no restrictions and claimant returned to work for respondent.

In the Preliminary Hearing now appealed, claimant testified that after returning to work he aggravated or reinjured his low back moving furniture in the course of his work for respondent. Respondent, on the other hand, points to inconsistencies between a statement given by claimant to an adjustor, statements in the medical records and testimony of the claimant at the Preliminary Hearing. Respondent suggests that claimant more likely aggravated or reinjured his back when he moved out of his home at the time he and his wife separated.

The record does contain evidence tending to support respondent's contention. Claimant has testified that he injured his back moving at work in November 1994. The medical records contain several references which suggest he injured himself moving furniture a short time after his release by Dr. Bartal in late August 1994. The recorded statement taken by the insurance adjustor suggests claimant reinjured his low back at work in September 1994 and moved out of his residence shortly before he returned to see the doctor in November 1994. Other medical records, on the other hand, indicate he and his wife separated and he left his residence in late August 1994. These records, therefore, corroborate claimant's testimony at the Preliminary Hearing that he moved out of his residence in August 1994 and injured his back at work in November 1994.

The Administrative Law Judge found claimant's testimony to be credible. The Appeals Board agrees. On the basis of claimant's testimony and the fact the records offer no other consistent or more probable version of the facts, the Appeals Board finds that the claimant should be provided the ordered benefits and affirms the decision by the Administrative Law Judge.

WHEREFORE, the Appeals Board finds that the Order of Administrative Law Judge John D. Clark dated February 7, 1995, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Tom E. Hammond, Wichita, Kansas
Frederick L. Haag, Wichita, Kansas
John D. Clark, Administrative Law Judge
George Gomez, Director